

**Chapter 173-434 WAC**  
**SOLID WASTE INCINERATOR FACILITIES**  
**Last Update: 9/17/90**

**Section By Section Analysis**  
**Proposed Amendments**  
**CR-102 filed 030613**  
**A.O. #02-05**

**20030702**

**WAC SECTIONS**

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|--------------------|--|
| <u>173-434-010</u> | Purpose.   |
| <u>173-434-020</u> | Applicability.                                   |
| <u>173-434-030</u> | Definitions.                                     |
| <u>173-434-050</u> | New source review (NSR).                         |
| <u>173-434-070</u> | Prevention of significant deterioration (PSD).   |
| <u>173-434-090</u> | Operation and maintenance plan.                  |
| <u>173-434-100</u> | Requirement for BACT.                            |
| <u>173-434-110</u> | Standards of performance.                        |
| <u>173-434-120</u> | Emission standards for hazardous air pollutants. |
| <u>173-434-130</u> | Emission standards.                              |
| <u>173-434-160</u> | Design and operation.                            |
| <u>173-434-170</u> | Monitoring and reporting.                        |
| <u>173-434-190</u> | Changes in operation.                            |
| <u>173-434-200</u> | Emission inventory.                              |
| <u>173-434-210</u> | Special studies.                                 |

**General**

The rulings of the Pollution Control Hearings Board #02-020, Tacoma v. Ecology, stand. These rule amendments are not intended to alter that decision of the PCHB. If these amendments affect any of the subject matter of that case, they may be deemed to implement the case, not alter it.

**WAC 173-434-010 Purpose.**

This section is not amended.

**WAC 173-434-020 Applicability.**

The phrase "solid waste derived fuel" is deleted. This change is intended to have no net affect on the meaning of the rule. This section is the only place that the phrase "solid waste derived

fuel" is used in the rule. The definition of solid waste is amended to include that phrase, so its deletion will have no effect on applicability.

The phrase "solid waste" is removed from the first sentence and added to each of the two subsections. This is intended to have no net affect on the meaning of the rule. Removing the phrase "solid waste" from the first sentence does not change the meaning of this section because the phrase is added to subsections (1) and (2), and because the definition of incineration facility already uses the phrase. This is intended to clarify that the 12 tons/day threshold applies to solid waste, not to all fuels. For example, cement kilns burn hundreds of tons/day of fuel, but little if any of it qualifies as solid waste under the proposed definition.

The word "was" is changed to "were". This change is intended to have no net affect on the meaning of the rule. This is a grammatical change.

### **WAC 173-434-030 Definitions.**

#### **WAC 173-434-030(1), definition of "incinerator facility."**

This change is intended to have no net affect on the meaning of the rule.

The words "principle or" are added in the phrase "whose activities are principle or ancillary to the incineration of solid waste." This makes explicit that activities may be either principle or ancillary to the incineration. This is a clarification to make express that which is already implicit, based on how this section is actually implemented. For example, the phrase "incinerator facility" in chapter 434 includes that which meets the definition of "combustor unit" in 40 CFR, part 60, subpart Eb.

The meaning of the word "ancillary" is elaborated. This is not a change, just an express statement of longstanding practice. "Ancillary" refers not only to the primary or subsidiary purpose of the facility, or unit at the facility, to incinerate solid waste, but also to particular activities and units within the facility that support, contribute to, or carry out the incineration of solid waste.

The rulings of the Pollution Control Hearings Board #02-020, Tacoma v. Ecology, stand. One ruling in that case was that "in WAC 173-434 the phrase 'incinerator facility' broadens the regulatory scope to include units whose burning of solid waste may be only 'ancillary' to its primary purpose."

#### **WAC 173-434-030(3), definition of "solid waste."**

WAC 173-434-030(3), first sentence. The phrase "solid waste derived fuel" is added to the laundry list of materials that constitute solid waste to expressly state that which is already the practice. This compliments the deletion of that phrase from the applicability section, so the deletion would have no effect. Note that refuse derived fuel, RDF, would be a type to solid

waste derived fuel. This addition complements the deletion in the applicability section, WAC 173-434-020. This change is intended to have no net affect on the meaning of the rule.

WAC 173-434-030(3), first sentence. The wording in the first sentence is rearranged. This change is intended to have no net affect on the meaning of the rule.

WAC 173-434-030(3), second sentence. EPA subparts are referenced in the second sentence. The sentence restates that which is already true. Municipal solid waste (MSW in subparts Cb, Ea, Eb, AAAA, and BBBB) and commercial and industrial solid waste (CISW in subparts CCCC and DDDD), are already included in the broadly inclusive chapter 434 definition of "solid waste." Expressly stating this fact is intended to clarify the overlapping or coinciding applicability of the many regulations. An inclusion in chapter 434 would override an exclusion in an EPA subpart. An exclusion in chapter 434 would override an inclusion in an EPA subpart. This change is intended to have no net affect on the meaning of the rule.

WAC 173-434-030(3)(a). Certain creosote treated wood is excluded from the definition of "solid waste." This would keep creosote treated wood from being included in the amount of solid waste that would trigger applicability of chapter 434. To be so excluded however, the exempted wood must be "fresh," not salty. For example, marine pilings and drift wood are saturated with salt water, and as such are prime candidates to produce white plumes of condensed NaCl and generate HCl, dioxins, and furans. Note that this definition does not permit or forbid the burning of specific items; it merely colors the applicability of chapter 434. Of course, creosote-treated wood may nonetheless meet the definition of "solid waste" if it contains other substances that make it dangerous waste or some other element of "solid waste."

WAC 173-434-030(3)(b). A narrow exception for specific items introduced into cement plant kilns is added to the definition of "solid waste." This exception at cement plants is proposed in recognition of preserving the status quo. The two cement plants in Washington are not currently permitted under chapter 434, and the applicability of 434 to cement plants has not been formally established. This exception would allow cement plants to continue established operations without triggering chapter 434. Only if a cement plant expands the substances incinerated to that which meets the new definition of solid waste might chapter 434 applicability be triggered.

**WAC 173-434-030(4), definition of "transmissometer."**

The reference to the federal regulation is updated to the most current printed version of the Code of Federal Regulation.

**WAC 173-434-050, New Source Review (NSR).**

This section is deleted because it does not add to or change rules that already exist in other chapters. This makes it redundant. Deleting this section would not change any requirements. This change is intended to have no net affect on the meaning of the rule.

**WAC 173-434-050, Prevention of Significant Deterioration (PSD).**

This section is deleted because it does not add to or change rules that already exist in other chapters. This makes it redundant. Deleting this section would not change any requirements. This change is intended to have no net effect on the meaning of the rule.

**WAC 173-434-090, Operation and maintenance plan.**

This section is not changed. However, a facility that becomes subject to the requirements of the federal rule in 40 CFR, part 60, subpart Eb, would not be subject to this section.

**WAC 173-434-100, requirement for BACT.**

This section is deleted because it does not add to or change rules that already exist in other chapters. This makes it redundant. Deleting this section would not change any requirements. This change is intended to have no net effect on the meaning of the rule.

**WAC 173-434-110, Standards of performance.**

WAC 173-434-110(1). The old subsection (1) is deleted because it does not add to or change rules that already exist in other chapters. This makes it redundant. Deleting this subsection would not change any requirements. This change is intended to have no net effect on the meaning of the rule. WAC 173-400-115 continues to incorporate by reference federal standards of performance for new sources.

WAC 173-434-110(1). Under the amendments, a facility may be subject to the requirements of 40 CFR, part 60, subpart Eb, in three ways;

1. by way of 40 CFR, part 60, subpart Eb, itself,
2. by way of WAC 173-400-115, which incorporates the federal new source performance standards, including subpart Eb, into the WAC by reference, and
3. by way of WAC 173-434-110, which incorporates subpart Eb into the WAC by reference, but extends the applicability criteria to coincide with those of chapter 434.

The first two ways already exist without the amendments. Any facility subject to Eb by either of these first two ways is inherently subject to Eb by the third way, because the applicability through WAC 173-400-115 and in subpart Eb itself are subsets of the extended applicability in 434. Subsection 110(2) is where the applicability criteria of subpart Eb are altered to coincide with the existing applicability criteria of chapter 434.

WAC 173-434-110(1)(a) and (b). The incorporation of subpart Eb by reference is bifurcated. This two-part splitting of the rule allows EPA to incorporate into the SIP all the rest of 434 except for those specified sections that they do not want in the SIP. The net effect is no different than had Eb been incorporated in total. This is simply an editorial trick to facilitate SIP incorporation.

WAC 173-434-110(2)(a). The threshold of 250 tons/day is adjusted downward to 12 tons/day throughout 40 CFR part 60, subpart Eb, including, sections 60.50b(a) & (b) (general

applicability), 60.56b (air curtain incinerators), and 60.59b(a) & (b) (reporting & recordkeeping). This reduces the effective applicability threshold of subpart Eb in Washington from 250 tons/day down to 12 tons. Since the chapter 434 threshold has been, and remains, 12 tons/day, this does not alter the applicability criteria of chapter 434.

WAC 173-434-110(2)(b). The phrases "municipal solid waste," "municipal type solid waste," and "MSW" in subpart Eb are adjusted to include all materials that fit the definition of solid waste in chapter 434. This has the effect of extending the applicability of subpart Eb in Washington from just MSW to solid waste. This does not extend the reach of chapter 434 itself however, which broadly defines "solid waste", already covering that which is "MSW."

WAC 173-434-110(2)(c). The federal rule, 40 CFR, part 60, subpart Eb, excludes from its applicability a list of certain types of facilities. The incorporation in WAC 173-434-110 retains most of these exclusions. By not incorporating §60.50b(i), (j), and (p), section 110 makes three types of facilities prospectively subject to Eb. Since chapter 434 does not presently exclude these three types of facilities from its applicability, this does not alter the applicability criteria of chapter 434.

- 40 CFR part 60, subpart Eb, §60.50b(e) is not included in the list of unincorporated exclusions. The exclusion is retained. Small power producers with homogenous fuel need not be regulated under section 110 for mixed streams of solid waste.
- 40 CFR part 60, subpart Eb, §60.50b(f) is not included in the list of unincorporated exclusions. The exclusion is retained. Cogeneration facilities with homogenous fuel need not be regulated under section 110 for mixed streams of solid waste.
- 40 CFR part 60, subpart Eb, §60.50b(g) is not included in the list of unincorporated exclusions. The exclusion is retained. Combusting a single-item waste stream of tires need not be regulated under section 110 for mixed streams of solid waste.
- 40 CFR part 60, subpart Eb, §60.50b(h) is not included in this list of unincorporated exclusions. The exclusion is retained. Hazardous waste incinerator permits are regulated more stringently under a different scheme than Eb permits. For example, section 3005 provides a better way of regulating hazardous waste incinerators than under a solid waste incineration rule by making risk a threshold analysis. Hazardous waste incineration need not be regulated under section 110 for mixed streams of solid waste.
- 40 CFR part 60, subpart Eb, §60.50b(k) is not included in the list of unincorporated exclusions. The exclusion is retained. Air curtain incinerators that combust a fuel stream composed of 100 percent yard waste need not be regulated under section 110 for mixed streams of solid waste.
- 40 CFR part 60, subpart Eb, §60.50b(l) is not included in the list of unincorporated exclusions. The inclusion is retained. Air curtain incinerators combusting municipal solid waste other than yard waste, should be regulated under section 110.
- 40 CFR part 60, subpart Eb, §60.50b(m), is not included in the list of unincorporated exclusions. The exclusion is retained. Plastics/rubber pyrolysis/combustion need not be regulated under section 110 for mixed streams of solid waste.
- 40 CFR part 60, subpart Eb, §60.50b(n), authorities retained by the administrator, is not included in the list of unincorporated exclusions. It would not have any meaning in the incorporated rule anyway.

- 40 CFR part 60, subpart Eb, §60.50b(o) is not included in the list of unincorporated exclusions. The effective date of the incorporations is specified elsewhere.

This excludes several of the exclusions of subpart Eb, effectively extending the prospective applicability of Eb to (i) metal recovery, (j) 30% municipal solid waste cofire, and (p) cement kilns. Such facilities, if any, that already exist, may continue to be exempt from WAC 173-434-110, and continue to be subject to chapter 434, until August 1 of 2003, the approximate date when these rule amendments are to be promulgated. For example, facilities such as cement plants or the Tacoma Steam Plant are not intended to become subject to the amendments due to construction/reconstruction/modification before the rule is written. Note that although a facility may be subject to the rule as of August 1, the effective date of the rule is five months later.

WAC 173-434-110(2)(d). In 40 CFR, part 60, subpart Eb, §60.51b, the sentence of the definition of "municipal waste combustor unit" that excludes "cement kilns firing municipal solid waste (as specified in 60.50b(p))" is revised to read "municipal waste combustors do not include cement kilns firing less than 12 tons/day of solid waste (as defined in WAC 173-434-030)." This facility type must be excluded from the municipal waste combustor definition for consistency with the exclusions in subsection(2). Cement kilns burning less than 12 tons/day of solid waste are not municipal waste combustors. The proposed definition simply confirms that subpart Eb applies to the same universe of cement kilns that the rest of the chapter regulates, those that consume more than 12 tons per day of "solid waste." There are two cement plants in Washington: Ash Grove and LaFarge.

WAC 173-434-110(2)(e). The November 20, 1997, dates in subpart Eb, subsection 60.52b(c), are changed to June 20, 2005. An affected facility under subpart Eb that commenced modification up to November 20, 1997, must comply with an initial dioxin-furan standard of 30 ng/dscm. Such a facility must have complied with the 30 ng/dscm dioxin-furan standard for three years, after which it must have complied with a 13 ng/dscm standard. Facilities modified after November 20, 1997, must have complied with the 13 ng/dscm standard immediately. That provision allowed those sources in the process of modification time to develop strategies for complying with the 13 ng/dscm standard. The chapter 434 rule amendments use a date consistent with the step down scenario of subpart Eb. EPA allowed sources up to 23 months after the promulgation date of subpart Eb (December 19, 1995) to comply with the dioxin standard step down. Therefore, the date in this subsection should be about 23 months after the date chapter 434 amendments are to be promulgated (about July 20, 2003), which would be about June 20, 2005. The facility affected by the chapter 434 amendments would use this time to install equipment and develop techniques to meet the stepped down standard. Note that any facility directly subject to subpart Eb, as opposed to being made subject through these proposed chapter 434 amendments, would be subject to the dates in Eb.

WAC 173-434-110(3). Except for WAC 173-434-130(4)(c), all of WAC 173-434-090, -130, -160, -170, -190, and -200 shall not apply to an incinerator facility that elects to become subject to this section in an order of approval or other regulatory order from the permitting agency.

WAC 173-434-110(3)(a). Any facility subject to subpart Eb by way of the altered applicability criteria in the incorporation of subpart Eb into section 110 by reference would be exempted

from most of chapter 434. Note that any facility directly subject to subpart Eb, would necessarily be subject to these proposed chapter 434 amendments, and likewise exempted from most of chapter 434.

WAC 173-434-110(3)(b). This "opt in" provision would allow a facility that is not or may not be subject to subpart Eb to subject itself to Eb in exchange for becoming relieved of most of chapter 434.

WAC 173-434-110(4). The effective date of this section shall be January 1, 2004. If this rule is adopted about August 1, 2003, this will give facilities about 5 months to meet the particular requirements of subpart Eb.

**WAC 173-434-120, Emission standards for hazardous air pollutants.**

This section is deleted because it does not add to or change rules that already exist in other chapters. This makes it redundant. Deleting this section would not change any requirements. This change is intended to have no net affect on the meaning of the rule.

**WAC 173-434-130 Emission standards.**

"When more than fifty percent of the heat input is fossil fuel, ecology or the authority may establish a higher sulfur dioxide limit provided that limit meets BACT requirements."

EPA declared that it would delete this sentence from the SIP, so Ecology is deleting it from the state rule. See 40 CFR 52.2476.

**WAC 173-434-160 Design and operation.**

This section is lightly reordered and renumbered. These are structural, not substantive changes intended to make the rule look more like how it is applied by grouping related subject matter. This change is intended to have no net affect on the meaning of the rule.

**WAC 173-434-170(1)(b) Monitoring and reporting.**

Appendix F should have been included here all along, given the relevance of quality assurance/control.

**WAC 173-434-170(1)(b) Monitoring and reporting.**

The reference to the federal regulation is updated to the most current printed version of the Code of Federal Regulation.

**WAC 173-434-170(1)(c) Monitoring and reporting.**

Appendix F may be revised to include opacity monitors, at which time this subparagraph (c) could be unnecessary, and this opacity monitoring provision could be merged back into subparagraph (b).

**WAC 173-434-190 Changes in operation.**

This section is renumbered. These are structural, not substantive changes. This change is intended to have no net affect on the meaning of the rule.

**WAC 173-434-200 Emission inventory.**

The phrase "as requested by Ecology or the authority or as required by federal emissions reporting requirements" is added to the end of WAC 173-434-200 as follows.

"The owner or operator of any solid waste incinerator shall submit an inventory of emissions that complies with WAC 173-400-105. The inventory shall include but may not be limited to stack and fugitive emissions of particulate matter, PM-10, sulfur dioxide, nitrogen oxides, carbon monoxide, volatile organic compounds, hydrogen chloride, and other contaminants as requested by Ecology or the authority or as required by federal emissions reporting requirements."

This is a clarification to make express that which is already implicit, based on how this section is actually implemented.

**WAC 173-434-210 Special studies.**

This section is not amended.